STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

D E P A R T M E N T O F H E A L T H

Safe and Healthy Lives in Safe and Healthy Communities

HEALTH SERVICES REGULATION

IN THE MATTER OF: AUDRIA HALL, NA A.H. FILE NO. (HSR) 2006-15

FINDINGS OF FACT AND ORDER

This matter came to be heard before the Rhode Island Department of Health pursuant to an Administrative Notice dated May 1, 2006 which charged the Respondent, Audria Hall, N.A., with "unprofessional conduct" for being verbally abusive to two patients at the Haven Health Center on September 23, 2005. The Administrative Hearing Notice stated that pursuant to R.I.G.L. § 23-17.9-8 alleged that this conduct constituted unprofessional conduct and is grounds

for discipline.

The Department of Health was represented by Gregory Madoian, Esq.

Respondent was not represented by counsel and failed to appear for the hearing.

Exhibit considered:

 Administrative Hearing Notice with a statement of the charges and Notice of the Opportunity to be Heard with the time, place and date of the hearing.

> CANNON BUILDING, Three Capitol Hill, Providence, Rhode Island 02908-5097 Hearing/Speech Impaired, Dial 711 or Call 1-800-745-5555 (TTY) Web Site: www.HEALTH.ri.gov

2. A Letter to the Respondent from Attorney Gregory Madoian continuing the matter to August 24, 2006.

Two witness, Jane Rogers, R.N., Director of Nursing at Haven Health Center and Ann Marie Silva, Activity Aid, testified for the state.

Constitutional Due Process Issue

The Respondent Audria Hall, N.A. was first notified of the pending charges against her shortly after May 1, 2006 by Certified Mail for the Tuesday, May 23, 2006 Administrative Hearing which was to be held at 10:00 am in the Edmund Beck Conference Room at the Department of Health. The Respondent failed to appear for her administrative hearing on that date. Counsel for the Department of Health represented to the Hearing officer that "out of an abundance of caution" the matter was continued to August 24, 2006 at 11:00 am in Room 209 at the Department of Health. Once again, this continuance was mailed to the Respondent by Certified Mail on June 25, 2006. Counsel Represented to the Hearing Officer that Respondent had phoned the Department alleging that she couldn't make the hearing due to the death of a family member. She provided no further details and did not request a continuance in writing.

Continuances are granted pursuant to the Rules and Regulations for Practice and Procedures Before the Department of Health (R42-35-PP). They may be granted by the Hearing Officer upon a 'motion of any party" for "good cause shown" in accordance with § 12.1 of the regulations. In the instant case, the Respondent failed the require test for the granting of the continuance by neither making a motion nor providing "good cause". At its minimum, good cause must be attempted though writing. A mere phone call to the department an hour before the hearing does not meet the requirements of the rules. This, taken in the context of her previous

failure to appear to answer the charges, provides the required due process notion of notice and an opportunity to be heard. Accordingly, the department was permitted to proceed.

Summary of the Testimony

Jane Rogers, the Director of Nursing at the Haven Health Center, was first to testify for the state. She stated that she had worked previously with the Respondent Audria Hall and was with her on duty the night of September 23, 2005. She testified that a 76 year-old male patient (hereinafter "Patient A") with an active colostomy bag was calling out from his room to Hall. According to Rogers, Hall was ignoring the patient and going about her business including making telephone calls. Rogers intervened and asked Hall if she was going to attend to her patient because the patient was complaining that a feces covered towel was left in the room and the patient was attempting to have a meal. When Patient A came out of his room to speak with Hall she held up her hand to cover his face and walked away from him. Rogers said that Patient A told her that she (Hall) "does this to him every day." Rogers said that she had 30 years of nursing experience and never testified against another nurse. She said that Hall's behavior was certainly "unprofessional conduct".

The next witness to testify was Ann Marie Silva an activity aid at the health center. She testified that while doing an initial interview with a new patient (hereinafter "Patient B") in her 50s who suffered from multiple sclerosis Hall entered the room and rudely turned to Patient B and announced "Everything in this room belonged to another patient." She said that the only things that Patient B was permitted to use were in the two shopping bags that accompanied her. Silva categorized Hall's temperament with the new patient as loud and rude. She echoed Rogers opinion that Hall was "unprofessional" and abusing. She testified that she has worked with Hall for about 5 years and said, Hall "shouldn't be doing this kind of work."

Finding of Facts and Conclusions of Law

- 1. That the Respondent was a licensed Nursing Assistant at the Haven Health Center on September 23, 2005 when she was verbally abusive and neglected the needs of Patient A, a 76 year-old male patient with an active colostomy.
- 2. That the Respondent behaved in an unprofessional manner to Patient B while on duty in the same health center.
- 3. That sufficient evidence was produced by the Department Of Health that indicates the Respondent is guilty of "unprofessional conduct" in the practice of the profession of nursing assistant.
- 4. That the Respondent has demonstrated a pattern of rude and abusive behavior toward residents that demonstrated "unprofessional conduct" that required serious rebuke.
- 5. That the Department of Health gave appropriate notice and opportunity to be heard and that the Respondent failed to avail herself of the opportunity to present evidence and witnesses on her behalf.

ORDER

Respondent Audria Hall, N.A. is hereby suspended from practice for a minimum of one (1) year from the date of entry of this order. Any reinstatement of this license is at the sole discretion of the Department of Health. The Respondent will be required to demonstrate good moral character and substantial evidence that she has addressed the behavioral issues that lead to this suspension.

Succe W. McIntyre, Esq

Hearing Officer

8-25-66 Date

Certification

Carole allsworth

I hereby certify that on August 25, 2006 a copy of this order was sent to the following individuals postage prepaid:

Gregory Madoian, Esq. Department of Health 3 Capitol Hill, Rm. 404 Providence, R.I. 02908

Audria Hall 18 Wesleyan Ave. Providence, RI 02901